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**FILED**  
DISTRICT COURT TERRITORY OF GUAM

OCT 24 2007

JEANNE G. QUINATA  
Clerk of Court

6 **IN THE UNITED STATES DISTRICT COURT**  
7 **TERRITORY OF GUAM**

9 UNITED STATES OF AMERICA,

10 vs.

11 IN HYUK KIM aka DOMINIC,

12 Defendant.

CRIMINAL CASE NO. CR07-00064

13 **MOTION TO CONTINUE TRIAL**

14  
15 Defendant, IN HYUK KIM aka DOMINIC, by and through counsel, LUJAN AGUIGUI  
16 & PEREZ LLP, respectfully moves the court for an order continuing trial and filing deadlines for a  
17 period of approximately three (3) months. The continuances are requested on the following  
18 grounds: (a) counsel was retained on or about October 23, 2007; (b) the trial is currently  
19 scheduled for October 30, 2007; (c) the pretrial motion cut-off date and other filing deadlines  
20 have lapsed; (d) newly retained counsel requests an opportunity to thoroughly review and  
21 investigate this case and to prepare for trial, motions, or determine other strategic options for the  
22 disposition and defense of this case; and, (e) a continuance of approximately three (3) months will  
23 ensure an adequate opportunity for newly retained counsel to perform the aforementioned tasks  
24 and ensure the defendant receives effective assistance of counsel. Counsel has discussed the  
25 request for continuance with Assistant U.S. Attorney Karon Johnson who indicated she did not  
26

1 object to a continuance of the trial date. The defense submits that this motion is made to  
2 accomplish the ends of justice

3 Federal Rule of Criminal Procedure, Rule 45(b)(1) provides: "When an act must or may  
4 be done within a specified period, the court on its own may extend the time, or for good cause  
5 shown may do so on a party's motion made: (A) before the originally prescribed or previously  
6 extended time expires; or (B) after the time expires if the party failed to act because of excusable  
7 neglect." The Speedy Trial Act, 18 U.S.C. §§ 3161, et seq., provides that the judge may grant a  
8 continuance at the request of the defendant or his counsel "on the basis of his findings that the  
9 ends of justice served by taking such action outweigh the best interest of the public and the  
10 defendant in a speedy trial."  
11

12 The trial date is scheduled for October 30, 2007. The pretrial motion cut-off and other  
13 pretrial filing deadlines have lapsed but lapsed prior to new counsel's retention and requested  
14 entry of appearance. Continuance of the trial and motion cut-off dates will ensure that the ends of  
15 justice are served by ensuring that the defendant receives effective assistance of counsel, that  
16 counsel is adequately prepared for trial, if this matter proceeds to trial, that procedural and other  
17 pretrial matters are properly addressed, and/or that defendant and counsel have a sufficient  
18 opportunity to determine strategic issues in this matter.  
19

20 Dated this 24<sup>th</sup> day of October, 2007.  
21

22 **LUJAN AGUIGUI & PEREZ LLP**

23  
24 By: 

25 **PETER C. PEREZ, ESQ.**

26 *Attorneys for Defendant In Hyuk Kim aka Dominic*